

## **PROPOSED NEW LANGUAGE**

### ***NRS 200.XXX Unlicensed health care procedure causing death or substantial bodily harm; penalties.***

*1. Any person who performs a health care procedure on another person without any license required under the laws of this state:*

*(a) If substantial bodily harm to the victim results,*

*(i) For the first offense, shall be punished for a category C felony as provided in NRS 193.130.*

*(ii) For any subsequent offense, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000.*

*(b) If death to the victim results, unless a more severe penalty is prescribed by law for the act or omission which brings about the death of the victim, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000. A sentence imposed pursuant to this subsection may not be suspended nor may probation be granted.*

*2. As used in this section, "health care procedure" means any procedure for which a license is required under NRS chapter 630, NRS chapter 630A, NRS chapter 631, NRS chapter 632, NRS chapter 633, NRS 634, NRS chapter 634A, NRS chapter 635, NRS chapter 636, NRS chapter 637, NRS chapter 639, or NRS chapter 640, that does not otherwise fall within the definition of "surgical procedure" set forth in NRS 200.XXY(2).*

### ***NRS 200.XXY Unlicensed surgical procedure; penalties.***

*1. Any person who performs a surgical procedure on another person without any license required under the laws of this state:*

*(a) For the first offense, if no substantial bodily harm to the victim results, shall be punished for a category C felony as provided in NRS 193.130.*

*(b) For any subsequent offense, or if substantial bodily harm to the victim results, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000.*

*(c) If death to the victim results, unless a more severe penalty is prescribed by law for the act or omission which brings about the death of the victim, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000. A sentence imposed pursuant to this subsection may not be suspended nor may probation be granted.*

*2. As used in this section, "surgical procedure" means any invasive procedure where a break in the skin is created and there is contact with the mucosa, or skin break, or internal body cavity beyond a natural or artificial body orifice procedure, for which a license is required under NRS chapter 630, NRS chapter 630A, NRS chapter 631, NRS chapter 632, NRS chapter 633, NRS 634, NRS chapter 634A, NRS chapter 635, NRS chapter 636, NRS chapter 637, NRS chapter 639, or NRS chapter 640.*

**NRS 630.400 Penalty for certain violations.** A person who:

1. Presents to the Board as his or her own the diploma, license or credentials of another;
  2. Gives either false or forged evidence of any kind to the Board;
  3. Practices medicine, perfusion or respiratory care under a false or assumed name or falsely personates another licensee;
  4. Except as otherwise provided by a specific statute, practices medicine, perfusion or respiratory care without being licensed under this chapter;
  5. Holds himself or herself out as a perfusionist or uses any other term indicating or implying that he or she is a perfusionist without being licensed by the Board;
  6. Holds himself or herself out as a physician assistant or uses any other term indicating or implying that he or she is a physician assistant without being licensed by the Board; or
  7. Holds himself or herself out as a practitioner of respiratory care or uses any other term indicating or implying that he or she is a practitioner of respiratory care without being licensed by the Board,
- ↪ is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#), *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY*.

**NRS 630A.590 Penalty for certain violations.** A person who:

1. Presents to the Board as his or her own the diploma, license, certificate or credentials of another;
  2. Gives either false or forged evidence of any kind to the Board;
  3. Practices homeopathic medicine under a false or assumed name; or
  4. Except as otherwise provided in [NRS 629.091](#), practices homeopathic medicine without being licensed or certified under this chapter,
- ↪ is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#), *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY*.

**NRS 630A.600 Penalty for practicing without license or certificate.** Except as otherwise provided in [NRS 629.091](#), a person who practices homeopathic medicine without a license or certificate issued pursuant to this chapter is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#), *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY*.

**NRS 631.400 Penalties; injunctive relief.**

1. A person who engages in the illegal practice of dentistry in this State is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#), *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY*.
2. *Unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY, a* ~~A~~ person who practices or offers to practice dental hygiene in this State without a license, or who, having a license, practices dental hygiene in a manner or place not permitted by the provisions of this chapter:
  - (a) If it is his or her first or second offense, is guilty of a gross misdemeanor.
  - (b) If it is his or her third or subsequent offense, is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#).

3. Unless a greater penalty is provided by specific statute, a person who is licensed to practice dentistry who practices dentistry in a manner or place not permitted by the provisions of this chapter:

(a) If it is his or her first or second offense, is guilty of a gross misdemeanor.

(b) If it is his or her third or subsequent offense, is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#).

4. The Board may assign a person described in subsection 1, 2 or 3 specific duties as a condition of renewing a license.

5. If a person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the district court of any county, on application of the Board, may issue an injunction or other appropriate order restraining the conduct. Proceedings under this subsection are governed by [Rule 65](#) of the Nevada Rules of Civil Procedure, except that no bond or undertaking is required in any action commenced by the Board.

### **NRS 632.315 Practicing or offering to practice nursing without license unlawful; enforcement.**

1. For the purposes of safeguarding life and health and maintaining high professional standards among nurses in this State, any person who practices or offers to practice nursing in this State shall submit evidence that he or she is qualified to practice and must be licensed as provided in this chapter.

2. Any person who:

(a) Practices or offers to practice nursing in this State or uses any title, abbreviation, sign, card or device to indicate that he or she is practicing nursing in this State unless that person has been licensed pursuant to the provisions of this chapter; or

(b) Does not hold a valid and subsisting license to practice nursing issued pursuant to the provisions of this chapter who practices or offers to practice in this State as a registered nurse, licensed practical nurse, graduate nurse, trained nurse, certified nurse or under any other title or designation suggesting that the person possesses qualifications and skill in the field of nursing,

→ is guilty of a misdemeanor, *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY.*

3. The Executive Director of the Board may, on behalf of the Board, issue an order to cease and desist to any person who practices or offers to practice nursing without a license issued pursuant to the provisions of this chapter.

4. The Executive Director of the Board shall forward to the appropriate law enforcement agency any information submitted to the Board concerning a person who practices or offers to practice nursing without a license issued pursuant to the provisions of this chapter.

### **NRS 633.741 Unlawful acts; penalty.** A person who:

1. Except as otherwise provided in [NRS 629.091](#), practices:

(a) Osteopathic medicine without a valid license to practice osteopathic medicine under this chapter;

(b) As a physician assistant without a valid license under this chapter; or

(c) Beyond the limitations ordered upon his or her practice by the Board or the court;

2. Presents as his or her own the diploma, license or credentials of another;

3. Gives either false or forged evidence of any kind to the Board or any of its members in connection with an application for a license;

4. Files for record the license issued to another, falsely claiming himself or herself to be the person named in the license, or falsely claiming himself or herself to be the person entitled to the license;

5. Practices osteopathic medicine or practices as a physician assistant under a false or assumed name or falsely personates another licensee of a like or different name;

6. Holds himself or herself out as a physician assistant or who uses any other term indicating or implying that he or she is a physician assistant, unless the person has been licensed by the Board as provided in this chapter; or

7. Supervises a person as a physician assistant before such person is licensed as provided in this chapter,

➤ is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#), *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY*.

#### **NRS 634.227 Unlawful acts; penalties.**

1. A person who:

(a) Presents to the Board as his or her own the diploma, license or credentials of another;

(b) Gives false or forged evidence of any kind to the Board; or

(c) Practices chiropractic under a false or assumed name or falsely personates another licensee,

➤ is guilty of a misdemeanor.

2. Except as otherwise provided in [NRS 634.105](#) and [634.1375](#), a person who does not hold a license issued pursuant to this chapter and:

(a) Practices chiropractic in this State;

(b) Holds himself or herself out as a chiropractor;

(c) Uses any combination, variation or abbreviation of the terms “chiropractor,” “chiropractic” or “chiropractic physician” as a professional or commercial representation; or

(d) Uses any means which directly or indirectly conveys to another person the impression that he or she is qualified or licensed to practice chiropractic,

➤ is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#), *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY*.

**NRS 634A.230 Practice without license prohibited; penalty.** Any person who represents himself or herself as a practitioner of Oriental medicine, or any branch thereof, or who engages in the practice of Oriental medicine, or any branch thereof, in this State without holding a valid license issued by the Board is guilty of a gross misdemeanor, *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY*.

#### **NRS 635.167 Unlawful acts.** Any person who:

1. Presents to the Board as his or her own the diploma, license or credentials of another;

2. Gives either false or forged evidence of any kind to the Board;

3. Practices podiatry under a false or assumed name or falsely personates another licensee;

4. Except as otherwise provided by specific statute, practices podiatry without being licensed under this chapter; or

5. Uses the title “D.P.M.,” “Podiatrist,” “Podiatric Physician,” “Podiatric Physician-Surgeon” or “Physician-Surgeon D.P.M.” when not licensed by the Board pursuant to this chapter, unless otherwise authorized by a specific statute,

È is guilty of a gross misdemeanor, *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY.*

**NRS 636.410 Penalties for violations.** A violation of this chapter shall constitute a gross misdemeanor and shall be punishable as such, *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY.*

**NRS 637.200 Unlawful acts.** The following acts constitute misdemeanors, *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY:*

1. The insertion of a false or misleading statement in any advertising in connection with the business of ophthalmic dispensing.
2. Making use of any advertising statement of a character tending to indicate to the public the superiority of a particular system or type of eyesight examination or treatment.
3. Furnishing or advertising the furnishing of the services of a refractionist, optometrist, physician or surgeon.
4. Changing the prescription of a lens without an order from a person licensed to issue such a prescription.
5. Filling a prescription for a contact lens in violation of the expiration date or number of refills specified by the prescription.
6. Violating any provision of this chapter.

**NRS 639.285 Unlawful sales by unlicensed persons.** Any person not licensed by the Board, who sells, displays or offers for sale any drug, device or poison, the sale of which is restricted to prescription only or by a registered pharmacist or under his or her direct and immediate supervision, is guilty of a misdemeanor, *unless a more severe penalty is provided pursuant to NRS 200.XXX or NRS 200.XXY.*

**NRS 640.169 Unlawful to practice physical therapy without license; exceptions; civil penalty.**

1. Except as otherwise provided in [NRS 629.091](#) and [640.120](#), it is unlawful for any person to practice physical therapy in this State unless the person holds a license or a temporary license issued pursuant to this chapter.
2. In addition to any criminal penalty that may be imposed for a violation of subsection 1, the Board, after notice and hearing, may issue an order against any person who has violated subsection 1 imposing a civil penalty of not more than \$5,000 for each violation. Any civil penalty collected pursuant to this subsection must be deposited in the State General Fund.



## STATUTES RELEVANT TO NEW LANGUAGE (FOR REFERENCE ONLY)

**NRS 0.060 “Substantial bodily harm” defined.** Unless the context otherwise requires, “substantial bodily harm” means:

1. Bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ; or
  2. Prolonged physical pain.
- (Added to NRS by 1985, 221)

### **NRS 200.030 Degrees of murder; penalties.**

1. Murder of the first degree is murder which is:
  - (a) Perpetrated by means of poison, lying in wait or torture, or by any other kind of willful, deliberate and premeditated killing;
  - (b) Committed in the perpetration or attempted perpetration of sexual assault, kidnapping, arson, robbery, burglary, invasion of the home, sexual abuse of a child, sexual molestation of a child under the age of 14 years, child abuse or abuse of an older person or vulnerable person pursuant to [NRS 200.5099](#);
  - (c) Committed to avoid or prevent the lawful arrest of any person by a peace officer or to effect the escape of any person from legal custody;
  - (d) Committed on the property of a public or private school, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties by a person who intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person; or
  - (e) Committed in the perpetration or attempted perpetration of an act of terrorism.
2. Murder of the second degree is all other kinds of murder.
3. The jury before whom any person indicted for murder is tried shall, if they find the person guilty thereof, designate by their verdict whether the person is guilty of murder of the first or second degree.
4. A person convicted of murder of the first degree is guilty of a category A felony and shall be punished:
  - (a) By death, only if one or more aggravating circumstances are found and any mitigating circumstance or circumstances which are found do not outweigh the aggravating circumstance or circumstances, unless a court has made a finding pursuant to [NRS 174.098](#) that the defendant is a person with mental retardation and has stricken the notice of intent to seek the death penalty; or
  - (b) By imprisonment in the state prison:
    - (1) For life without the possibility of parole;
    - (2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 20 years has been served; or
    - (3) For a definite term of 50 years, with eligibility for parole beginning when a minimum of 20 years has been served.

Ê A determination of whether aggravating circumstances exist is not necessary to fix the penalty at imprisonment for life with or without the possibility of parole.
5. A person convicted of murder of the second degree is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

6. As used in this section:

(a) “Act of terrorism” has the meaning ascribed to it in [NRS 202.4415](#);

(b) “Child abuse” means physical injury of a nonaccidental nature to a child under the age of 18 years;

(c) “School bus” has the meaning ascribed to it in [NRS 483.160](#);

(d) “Sexual abuse of a child” means any of the acts described in [NRS 432B.100](#); and

(e) “Sexual molestation” means any willful and lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions or sexual desires of the perpetrator or of the child.

[1911 C&P § 121; A 1915, 67; 1919, 468; 1947, 302; 1943 NCL § 10068]—(NRS A 1957, 330; 1959, 781; 1960, 399; 1961, 235, 486; 1967, 467, 1470; 1973, 1803; 1975, 1580; 1977, 864, 1541, 1627; 1989, 865, 1451; 1995, 257, 1181; [1999, 1335](#); [2003, 770](#), [2944](#); [2007, 74](#))

**NRS 453.333 Penalties for making available controlled substance which causes death.** If the death of a person is proximately caused by a controlled substance which was sold, given, traded or otherwise made available to him or her by another person in violation of this chapter, the person who sold, gave or traded or otherwise made the substance available to him or her is guilty of murder. If convicted of murder in the second degree, the person is guilty of a category A felony and shall be punished as provided in subsection 5 of [NRS 200.030](#). If convicted of murder in the first degree, the person is guilty of a category A felony and shall be punished as provided in subsection 4 of [NRS 200.030](#), except that the punishment of death may be imposed only if the requirements of paragraph (a) of subsection 4 of that section have been met and if the defendant is or has previously been convicted of violating [NRS 453.3385](#), [453.339](#) or [453.3395](#) or a law of any other jurisdiction which prohibits the same conduct.

(Added to NRS by 1983, 510; A 1985, 1598; 1987, 1462; 1995, 1285)